

of June, 1961, become the decision of the Commission; and, accordingly:

It is ordered, That all of the respondents herein, except William F. Smith as President of Heard-Kinard-Smith, Inc. (now known as Heard-Kinard Sales Company, Inc.), shall within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

IN THE MATTER OF
FELLER'S, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION AND THE FUR PRODUCTS
LABELING ACTS

Docket 8266. Complaint, Dec. 30, 1960—Decision, June 8, 1961

Consent order requiring Harrisburg, Pa., furriers to cease violating the Fur Products Labeling Act by attaching to fur products labels bearing fictitious prices, represented thereby as the regular retail selling prices; by failing to make the disclosure "secondhand fur" on invoices where required; by advertising in newspapers which failed to disclose when fur products were composed of used or secondhand fur, represented prices as reduced from regular prices which were in fact fictitious, and represented fur products falsely as being fire merchandise; and by failing to maintain adequate records as a basis for pricing claims.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Feller's, Inc., a corporation, and Charles M. Feller, Mary M. Feller, and Oscar L. Feller, individually and as officers of said corporation, hereinafter referred to as respondents,

Complaint

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have violated the provisions of said Acts and the Rules and Regulations promulgated under the Fur Products Labeling Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Feller's, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania with its office and principal place of business located at Third and Market Streets, Harrisburg, Pennsylvania.

Charles M. Feller, Mary M. Feller and Oscar L. Feller are officers of the corporate respondent and control, direct and formulate the acts, practices and policies of the said corporate respondent, including the acts and practices hereafter set forth. Their address is the same as that of the corporate respondent.

PAR. 2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, respondents have been and are now engaged in the introduction into commerce and in the sale, advertising and offering for sale, in commerce, and in the transportation and distribution in commerce of fur products; and have sold, advertised, offered for sale, transported and distributed fur products which have been made in whole or in part of fur which had been shipped and received in commerce, as the terms "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act.

PAR. 3. Certain of said fur products were misbranded in that labels affixed thereto contained fictitious prices and misrepresented the regular retail selling prices of such fur products, in that the prices represented on such labels as the regular prices of the fur products were in excess of the retail prices at which the respondents usually and regularly sold such fur products in the recent regular course of business, in violation of Section 4(1) of the Fur Products Labeling Act.

PAR. 4. Certain of said fur products were falsely and deceptively invoiced in violation of the Fur Products Labeling Act in that they were not invoiced in accordance with the Rules and Regulations promulgated thereunder in that the disclosure "secondhand fur" where required was not set forth on invoices in violation of Rule 23 of said Rules and Regulations.

PAR. 5. Certain of said fur products were falsely and deceptively advertised in violation of the Fur Products Labeling Act in that respondents caused the dissemination in commerce, as "commerce" is defined in said Act, of certain newspaper advertisements, concerning said products, which were not in accordance with the provisions

of Section 5(a) of the said Act and the Rules and Regulations promulgated thereunder and which advertisements were intended to aid, promote and assist, directly or indirectly, in the sale and offering for sale of said fur products.

PAR. 6. Among and included in the advertisements, as aforesaid, but not limited thereto, were advertisements of respondents which appeared in issues of the Sunday Patriot News and the Evening News, newspapers published in Harrisburg, Pennsylvania, and having a wide circulation in said state and various other states of the United States.

By means of said advertisements, and others of similar import and meaning not specifically referred to herein, respondents falsely and deceptively advertised fur products in that said advertisements:

(a) Failed to disclose that fur products were composed of used fur when such was the fact, in violation of Section 5(a)(2) of the Fur Products Labeling Act.

(b) Failed to disclose that fur products were composed of "secondhand fur" when such was the fact, in violation of Rule 23 of said Rules and Regulations.

(c) Represented prices of fur products as having been reduced from regular or usual prices where the so-called regular or usual prices were in fact fictitious in that they were not the prices at which said merchandise was usually sold by respondents in the recent regular course of business, in violation of Section 5(a)(5) of the Fur Products Labeling Act and Rule 44(a) of said Rules and Regulations.

(d) Represented fur products as being merchandise damaged by smoke and water and as being fire merchandise when in fact such merchandise was received subsequent to the date of the fire, in violation of Section 5(a)(5) of the Fur Products Labeling Act.

PAR. 7. Respondents, in advertising fur products for sale, as aforesaid, made claims and representations respecting the prices and values of fur products, but failed to maintain full and adequate records disclosing the facts upon which such claims and representations were based, in violation of Rule 44(e) of said Rules and Regulations.

PAR. 8. The aforesaid acts and practices of respondents, as herein alleged, are in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder and constitute unfair and deceptive acts and practices in commerce under the Federal Trade Commission Act.

Mr. Charles W. O'Connell and *Mr. Ernest D. Oakland* supporting the complaint.

Mr. Mitchell J. Cooper, of Washington, D.C., for respondents.

INITIAL DECISION OF JOHN LEWIS, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on December 30, 1960, charging them with having violated the Fur Products Labeling Act and the Rules and Regulations issued thereunder, and the Federal Trade Commission Act, through the misbranding and false and deceptive invoicing and advertising of certain fur products. After being served with said complaint, respondents appeared by counsel and thereafter entered into an agreement dated March 30, 1961, containing a consent order to cease and desist purporting to dispose of all of this proceeding as to all parties. Said agreement which has been signed by all respondents, by counsel for said respondents, and by counsel supporting the complaint, and approved by the Director and Assistant Director of the Commission's Bureau of Litigation, has been submitted to the above-named hearing examiner for his consideration, in accordance with Section 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings.

Respondents pursuant to the aforesaid agreement, have admitted all the jurisdictional allegations of the complaint and agreed that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations. Said agreement further provides that respondents waive any further procedural steps before the hearing examiner and the Commission, the making of findings of fact or conclusions of law and all of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with such agreement. It has been agreed that the order to cease and desist issued in accordance with said agreement shall have the same force and effect as if entered after a full hearing and that the complaint may be used in construing the terms of said order. It has also been agreed that the record herein shall consist solely of the complaint and said agreement, and that said agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

This proceeding having now come on for final consideration on the complaint and the aforesaid agreement containing consent order, and it appearing that the order provided for in said agreement covers all of the allegations of the complaint and provides for an appropriate disposition of this proceeding as to all parties,

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Order

said agreement is hereby accepted and is ordered filed upon this decision's becoming the decision of the Commission pursuant to Sections 3.21 and 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings, and the hearing examiner, accordingly, makes the following jurisdictional findings and order:

1. Respondent Feller's, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its office and principal place of business located at Third and Market Streets, in the City of Harrisburg, State of Pennsylvania.

Respondents Charles M. Feller, Mary M. Feller and Oscar L. Feller are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent. Their address is the same as that of the corporate respondent.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents hereinabove named. The complaint states a cause of action against said respondents under the Fur Products Labeling Act and the Federal Trade Commission Act, and this proceeding is in the interest of the public.

ORDER

It is ordered, That respondents Feller's, Inc., a corporation, and its officers, and Charles M. Feller, Mary M. Feller and Oscar L. Feller, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising, offering for sale, transportation or distribution in commerce, of fur products; or in connection with the sale, advertising, offering for sale, transportation, or distribution of fur products which are made in whole or in part of fur which has been shipped and received in commerce, as "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding fur products by falsely or deceptively labeling or otherwise identifying such products as to respondents' prices thereof by any representation that the regular or usual prices of such products are any amounts in excess of the prices at which respondents have usually and customarily sold such products in the recent regular course of business.

B. Falsely or deceptively invoicing fur products by failing to furnish invoices to purchasers of fur products showing that fur products contain or are composed of "secondhand fur," when such is the fact.

C. Falsely or deceptively advertising fur products through the use of any advertisements, representation, public announcement or notice which is intended to aid, promote or assist, directly or indirectly, in the sale, or offering for sale of fur products and which:

1. Fails to disclose that the fur product is composed of used fur, when such is the fact.

2. Fails to disclose that the fur product is composed of "second-hand fur," when such is the fact.

3. Represents, directly or by implication, that respondents' price of any fur product is any amount which is in excess of the price at which respondents have usually and customarily sold such products in the recent regular course of business.

4. Represents, directly or by implication, that fur products have been damaged by smoke and water or are fire merchandise, when such is not the fact.

D. Making claims and representations respecting prices and values of fur products unless respondents maintain full and adequate records disclosing the facts upon which such claims and representations are based.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 8th day of June, 1961, become the decision of the Commission; and, accordingly:

It is ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Commissioner Elman not participating.
